



May 29, 2012

The Honorable Robert E. Cooper Jr.  
Attorney General  
State of Tennessee  
P.O. Box 20207  
Nashville, TN 37202-0207

Dear General Cooper,

I am writing to bring to your attention several apparent violations of Tennessee's "anti-bot" consumer protection law (Tennessee Code Annotated 39-17-1105) concerning sports and entertainment ticket sales. In the alternative, the events discussed below evidence misleading and deceptive marketing and commerce, in violation of Tennessee's general consumer protection laws. I respectfully request that your office investigate these violations and prosecute those who are breaking the law.

Previous and recent investigations by Nashville's WTVF-TV have documented several instances when the very best tickets to popular entertainment events in Nashville were diverted from Ticketmaster to scalpers without ever being made available to the general public. It is clear that several dozen prime seats could not have ended up in the hands of a single-ticket reseller unless they were obtained (a) through the use of robotic ticket-grabbing software whose use is illegal in Tennessee; or (b) through collusion with Ticketmaster, the event promoter, the venue, the performing artist or his/her management, or an employee of one of these entities.

For example, the most recent revelations by WTVF show that hundreds of the best tickets to Eric Church's Bridgestone Arena concert on May 5 were scooped up by ticket resellers across the country, including a reseller in Los Angeles and another in North Carolina. Remarkably, the biggest buyer of these prime tickets was an east Tennessee public works employee who somehow acquired more than 200 great seats.

There are two sources from whom your office can demand documentation that we believe will show either illegal use of software for large-scale ticket-buying, or unlawfully deceptive marketing and commerce. The first is Ticketmaster, which is the gatekeeper for ticket sales to most major events in Tennessee and elsewhere. Ticketmaster's records, e.g., the "ticket manifest," should show whether large blocks of tickets to Eric Church and other concerts were acquired and by whom. The fact that Ticketmaster or its partners are allowing these sales without reporting them to prosecutors also seems worthy of an independent investigation, which could also probe why Ticketmaster permitted these large sales to the Eric Church concert while simultaneously advertising a four-ticket-per-person purchase limit. Each of these activities deceives and harms Tennessee consumers who deserve fair access to face-value tickets at the box office.



The second source for ticket information would be the artists themselves and their management groups. In the most recent WTVF investigation, the Nashville-based manager for Eric Church provided the revealing sales data, which demonstrates how those entities would have the right to demand to see ticket sales information in the hands of Ticketmaster.

Fan Freedom Project strongly supports citizens' rights to own their own tickets and to resell them if they wish. But we are also vehemently opposed to behavior that violates Tennessee's anti-bot laws or that otherwise strips fans of their right to a fair chance to buy the best concert seats available for face-value prices at the box office. We believe it is in the best interest of consumers, the entertainment industry and the state of Tennessee to punish those who are violating the law.

Your office's efforts to protect consumers are much appreciated. Thank you for considering this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Potter", is written below the word "Sincerely,".

Jon Potter

cc:

Mr. Jeff Hill  
Deputy Attorney General for Consumer Protection  
State of Tennessee  
P.O. Box 20207  
Nashville, TN 37202-0207

Mr. Victor S. Johnson III  
Davidson County District Attorney  
Washington Square, Suite 500  
222 Second Avenue North  
Nashville, TN 37201-1649

May 30, 2012

In a matter of weeks, the Fan Freedom Project – funded in part by StubHub – and others who profit from scalping have gone from aggressively opposing legislation that would combat scalping and protect fans to now calling for investigations looking into problems that they themselves create and contribute to. This hypocrisy shows the desperation of these groups to avoid discussing the real issues that result in *fans losing out to scalpers when they try to purchase tickets*. No one is more dedicated to preventing scalpers from using automated programs or BOTS to purchase tickets, the fans, artists, teams and Ticketmaster are all victims of their use. Once again someone is seeking to unfairly tarnish our reputation.

In typical fashion, the Fan Freedom Project has introduced misinformation and mistruths about Ticketmaster, local artists and Tennessee Venues in an attempt to turn the debate away from the deceptive practices used by their own supporters. The false accusations leveled in the Fan Freedom Project's misleading call for an investigation are egregious; one of the most important to clarify is that artists rarely- if ever- have less than 80% of seats available to the general public, there is no collusion.

Fans of live entertainment in Tennessee are looking for solutions to ticketing scalping. The Fan Freedom Project, and StubHub, had an opportunity to support legislative remedies to the real problems, yet choose to side with scalpers instead of fans in opposing them. We hope that they reconsider their opposition to the Fairness in Ticketing Act, which is supported by dozens of Tennessee artists, venues and sports teams. The Fan Freedom Project calling for an investigation is disingenuous.

# The Fairness in Ticketing Act of 2012

<u>Provision</u>	<u>What it Does</u>
<b>SPECULATIVE TICKETS DISCLOSURE</b>	Imposes disclosures to notify consumers when the seller does not have the tickets in hand.
<b>PRESERVATION OF FACE-VALUE TICKETING</b>	Preserves event presenters' right to choose ticketing methods that benefit consumers by allowing them choices in how they sell their tickets.
<b>PRICE TRANSPARENCY</b>	Requires resellers to show original ticket price (face value) in addition to resale prices.
<b>SELLER DISCLOSURE</b>	Requires resellers to disclose the nature of the seller of tickets, i.e., if they are a licensed broker or individual fan.
<b>SHOW SEAT LOCATION</b>	Mandates that resellers disclose the exact locations of the seats they are selling (including if the seat is ADA accessible or not).
<b>ENDING DECEPTIVE MARKETING</b>	Bans using name of venue, artist or trademarks in a website URL without written consent of the IP owner.
<b>TICKET IS A LICENSE (NOT PERSONAL PROPERTY)</b>	Strengthens definition of a ticket to proactively address what opposition wants to change.



## OFFICE OF THE DISTRICT ATTORNEY GENERAL

VICTOR S. JOHNSON III  
District Attorney General

September 11, 2012

Mr. Jon Potter  
Fan Freedom Project  
1025 F Street, NW, Suite 720  
Washington, DC 20004

Dear Mr. Potter:

I am the Assistant District Attorney General who has been investigating the case regarding allegations of illegal use of "robotic ticket-grabbing software" at Nashville's Bridgestone Arena.

Pertinent facts are as follows: Allegations were submitted on May 29<sup>th</sup>, 2012, by Fan Freedom Project to the State of Tennessee Attorney General's Office, that out-of-state resellers and one Tennessee public works employee had acquired a number of "great seats" by illegal use of robotic ticket-grabbing software. At the conclusion of my fact finding inquiry, I determined that evidence was not found to corroborate these allegations. Nor has the Tennessee General Assembly's intended victim of this statute, the ticket reseller (i.e. Ticketmaster), come forward with a criminal complaint.

Therefore, after reviewing the facts, it is my determination that further investigation into this matter would not be fruitful. Thus, it is my recommendation that this case be closed, and this matter be redressed with the Tennessee General Assembly.

If you wish to talk with me about the case for any reason, feel free to call me at (615) 862-5594 and leave a message if I am out of the office. I will get back to you as soon as possible.

Sincerely,

Stacey L. Smith  
Assistant District Attorney General

SLS

Cc: General Torry Johnson  
Deputy Attorney General Jeff Hill